

2014-018841
GL
A. Rauchberg

Index No. 14 Cv 2670 (Kam) (LB)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GREGORY PERKINS

Plaintiff

-against-

CARLTON NEWTON, MR. BROWN, CLARKE, #4399
BOYD, #18468, WEISE, #18492, CARMEN CAMPBELL
BENNETT, KATHY ANN DOCKER, C.O. MICHAEL
TURNBULL, #9879, THE CITY OF NEW YORK

Defendants

PLAINTIFFS" OPPOSITION TO
DEFENDANTS" MOTION TO DISMISS
THE AMENDED COMPLAINT

Gregory L. Perkins

Pro Se

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TABLE OF CONTENTS

Preliminary Statement.....	1
Statement Of Facts.....	4
Motion To Dismiss.....	7
Summary Judgement.....	8
Deliberate Indifference.....	8
Deprivation Of Therapeutic Diet.....	12
Serious Medical Need.....	14
Exhausted Administrative Remedies.....	15
Conspiracy.....	19
Procedural Due Process.....	24
Defendants Failed To Comply With Local Civil Rules.....	25
Municipal Liability.....	26
Conclusion.....	30

PRELIMINARY STATMENT

Plaintiff is currently or formerly a inmate in the New York City Department of Corrections custody (DOC) brings this action pursuant to 42 U.S.C. sec. 1983 against the defendants for their deliberate contribution to the violation of plaintiff's 1st, 5th, 8th, and the 14th amendments right. Defendants alleging that the plaintiff has 1) failed to exhaust available administrative remedies for only "some" of his claims (see defendants preliminary statement (1)) 2. plaintiff has failed to allege an unconstitutional condition of confinement or deliberate indifference to a serious medical need; 3. plaintiff failed to properly allege an unconstitutional denial of due process; 4. plaintiff failed to properly allege conspiracy or retaliation; and 5. plaintiff fails to state a claim of municipal liability against the City of New York.

Defendants have overlooked the fact that there is absolutely no system in place for therapeutic diets for inmates who travels outside the facility, and return to that facility, or any other facility, he or she is not provided with the appropriate diet, and has to go with out food. Prison Condition that are unsafe or that deprive you of a basic human need such as shelter, food, exercise, clothing, sanitation, and hygiene, violation the eighth amendment when they act with deliberate indifference to a prison condition that exposes a prisoner to an unreasonable risk of serious harm or deprives a prisoner of basic human need. Serious medical need, certyain condition might not be

unconstituinal on their own, they add up to create a single , indentifiable harm, also the defendant had a culpable state of mind.

The Supreme Court explained that an inmate must rely on authorites to treat his/hers medical needs, if the authorities fail to do so, those needs will not be met. Due process, in this case of the plaintiff, is being treaded very differently than the way most prisoners are treated. "significant hardship" The deprivation of due process actually interfered with his/her access to the court or prejudiced an existing action. The New York Department Corrections inmate grievance program is the very cause of the due process, violation when your grievance's ~~are~~ *are* always missing all the time or ignored, discarded, lost or otherwise mishandle by not being handled at all. However, when the person who run's this office Mr. Brown (Grievance Coordinator) tells you that he has discarded your grievance because he didn't feel like dealing with it and this happen~~s~~ over and over, this is when it becomes deliberate indifference.

When an inmate is appealing a grievance within the NYCDOC, to the CORC, they must give the appeal to the grievance coordinator because there is no working address to process your grievance, you will not be able to find any working address, yet the address you will find is no longer working.

As for defendants who has conspired and being a culpable state of mind, when C.O. Boyd #18468, C.O. John Doe, and the 2

Jane Doe defendants on two specified days (Dec 8th, and Dec 9th 2013) took the time to alter the paper work. C.O. Boyd, intentionally disobeyed her captain, she ignored the Captain's orders over and over for as long as she could..

STATEMENT OF THE FACTS

1. Plaintiff asserts that he has been prohibited from exercising his first amendment right to petition the government where the defendants refuse to accept or even acknowledge plaintiff "formal complaints" as implicitly abserved by the first amendment of the United States Constitution.

2. As a result of defense council misinterpretation of the law, defendant rely on several case law, see., defendants memorandum of law, in support of their defense that the failure to respond to plaintiffs grievances does not give rise to a first amendment violation. However, first amendment right was acknowledge grievance, (an issue of constitutionality) led to plaintiff eight amendment claim. Given the seriousness of this eight amendment claim and as a result of and in connection with plaintiff's first amendment right to petition the Government, plaintiff's claim — rise to a first amendment violation where such failure to respond to plaintiff " formal complaints resulted in an additional claim- an eight amendments violation.

3. New York City, and the New York^{City} Department of Corrections, do not have a system in place for inmates who have a therapeutic diet do to his/her medical care, no ^{Person} ~~Person~~ in the care of NYCDOC, should go hungry for any reason. When a person is given a therapeutic diet by the medical staff such as a Doctor, the prison officials should not⁺ intentionally deny or

delay the inmates access to said therapeutic diet. Nor should said inmate not be given food that complied with medical diet. When a inmate is not able to eat the food that was given to him/her be the prison officials, or that inmate did not get to eat at all. When this happens you are being deprived of his human needs (food). This has happen to the plaintiff each time plaintiff went outside the facility for court or medical, going hungry or just knowing that your going to go hungry is the cause of the harm, the pains of being hungry.

4. Plaintiff alleges that officer Boyd, and the Doe defendants conspired to deprive plaintiff of his "direct observational therapy medication,. See the plaintiff preliminary statements.

5. I plaintiff Perkins, alleged, that I (my self) forwarded my grievances to the Warden's office for determination because the grievance coordinator would not do it, he in his own words told me no, he would ~~do~~ it, the only reason I asked him to, was, ~~is~~ because the rules state that you have to submit to his office (IGRP). I took the time to write ~~the~~ Dora B. Schrino (Commissioner) and Shirvahna Cobin "Executive Director of Inter governmental Affairs, NYC Board of Correction and I forwarded each of my grievances. As in my preliminary statement I also went to Mr. Brown, (grievance corrdinator) to submit my grievances to C.O.R.C., and you also have to submit them to his office because there is no working address for this office (C.O.R.C.)

All of the defendants in this action has had a contribution to the violations of this complaint. Plaintiff has done all that he could, yet found that the I.G.P.P office and all the staff had done all they could do to deny, stop, and harm the Plaintiff in the matters of this complaint. Defendant has went as far as destroy plaintiff grievances. Then talk about it as if he has something to gloat about. By doing this Plaintiffs right to due process of law is being blocked unfortunately right of access to the courts are also being blocked, nefarious acts by the New York City, and the D.O.C... Defendant are in violation of plaintiffs 1st, 8th and 14th amendment rights. Defendants are in violation of Federal Rules of civil procedure 7.2, defendant has cited 54 cases and has only provided the Plaintiff with 19 of the 54 holding back 36 cases... Defendants apparently intend to prevent Plaintiff from seeking judicial relief. Plaintiff in fact established 1st amendment claim where his legal documents were destroyed in retaliation for his filing of grievance, grievance is a protected speech. However defendant has deliberately ignored the concerns in this complaint. Defendants failed to provide evidence contradicting plaintiff's claims, plaintiff should be allowed to amend the complaint upon learning each name of the Doe Defendant's whom plaintiff wish to sue.

Plaintiff felt the need to initiate suit in a desperate attempt to cease such practice.

MOTION TO DISMISS

On motion to dismiss for failure to state a claim upon which relief may be granted under rule 12(b)(6) of the federal rule of Civil Procedure, the court must accept as true all well pleaded factual allegations set forth in the complaint and must draw all positive inferences in favor of the plaintiff. See, Hudson v. Groiner, 2000 U.S. Dist. Lexis 17913, Bolt Elec v. City Of New 52 F. 3d 465,469.

A case should only be dismissed when it appears beyond a reasonable doubt that the plaintiff has "No" set of facts in support of his claim which would entitle him to relief. Cohen v. Koenig 25 F.3d 1168 (quoting Conley v. Gibson 355 U.S.-41, 45-46) The court must accept all allegations in the complaint as true and draw inferences in the non-moving party's favor. Lataro v. N.Y. Cardiothoracic Grp, PLLC 570 F.3d-471,475 (2nd Cir 2009).

To survive a motion to dismiss under rule 12(b)(6), "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" ASHCROFT v. Iqbal 556 U.S. 678- 2009). A plaintiff must plead factual content that allows the court to draw the reasonable inferences that the defendant is liable for the misconduct alleged. "However, detailed factual allegations are not necessary"-(Quoting Twombly 550 U.S. 554 at 555-56) Moreover, Plaintiffs' prose pleading are "to be liberally construed" (and), however, inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers " Erickson v. Pardus 551 U.S. 89, 94 (2007)

SUMMARY JUDGEMENT

If on motion to dismiss under rule 12(b)(6), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary Judgement under rule 56. Summary Judgement is appropriate if the record show that there is "no genuins dispute as to any material fact and the movant is entitled to judgement as a matter of law" Fed. R. Civ. P. 56(a)' see., Anderson v. Liberty lobby, Inc 477 U.S. 242, 248. " A genuine issue exists for summary judgement , purposes where the evidence, viewed in the light most favorable to the non-moving party, is such that a reasonable jury could decide in that party' favor" Harlem assocs v. Inc Vill of mineola 273 F. 3d 494, 498 (2nd circuit 2001)

DELIBERATE INDIFFERENCE

The test for deliberate ind@fference consists of two parts. Plaintiff must show a "serious medical need by alleging that failure to treat a prisoner's condition bould result in further significant injury on the unnecessary and wanton infliction of pain. Text v. Panner, 439 F. 3d 1091 (0th cir 2006) Hill v. Dekal DeKalb Reg'l youth det, ctr., 40 F. 3d 1176, 1187-(11th Cir 1994) The physical injurty has to be greater than the minimis but it ~~do~~ does not have to be severe, Siglar v. Hightower, 112 F. 3d 191 (5th cir 1997). Aggravated conditions could be 3typical and significant, Palme v. Richards, 364 F. 3d 60 (2nd cir 2004).

Indications of such a need include " The existence of an injury that a reasonable doctor or patient would find important and worthy of comment, the presence of a medical condition that significantly affect an individuals daily activities or the existence of chronic and substantial pain" McGuckin v. Smith 974 F.2d 1050, 1059-60, Estelle, 429 U.S. at 104; Jett v. Penner, 439 F.3d 1091, 1096 (9th cir. 2001). Plaintiff must show that a defendants response to the need was deliberately indifferent.

Deliberate indifference to serious medical needs may be manifested in two ways. "It may appear when prison officials deny, delay or intentionally interferes with medical treatment, Todaro v. Ward, 565 F. 2d 48. (2nd Cir 1997) Brown v. District of Columbia, 514 F. 3d 1279 (D.C. Cir 2008), Estelle, 429 U.S. at 104-05; Lopez v. Smith, 203 F. 3d 1122 (9th cir 2000). Prison officials may rely on what a prison doctor tells them. Johnson v. Doughty, 443 F. 3d 1001 (7th cir 2006) or it may be shown by the way in which prison officials provide medical care" Hutchings v. Hutchinson V. United States 838 F. 2d 390, 394.

To state an eighth(8th) amendment claim based on conditions of confinement, an inmate allege that. (1) objectively, the deprivation the inmate suffered was sufficiently serious that he was denied minimal civilized measure of life's necessities, and (2) subjectively, the official acted with a sufficiently culpable state of mind... Such as deliberate indifference to inmate health or safety "Walker v. Schult 717 F. 3d. 119, 125 (2nd cir 2013)

"To meet the objective element, the inmate must show that the conditions, either alone or in combination, pose an unreasonable "risk" of serious damage to his Health " to meet the subjective element, the plaintiff must show that the defendants "acted with more than mere negligence " and instead 'disregarded' an 'excessive risk' to inmate health or safety. Under the 8th amendment, officials may not create inhumane prison conditions, deprive inmates of basic necessities, or fail to protect their health or safety "Overton v. Bazzetta 539 U.S. 126 137 (2003), Farmer v. brennan 511 U.S. 825, 835 (1994), Talal v. White 403 F. 3d 423 (6th cir 2005), Helling v. McKinny, 509 U.S. 25, 33 (1993), Koehl v. Dalsheim, 85 F.3d 86, 88 (2nd cir 1996), Nance v Kelly, 912 F. 2d 605 (2nd cir 1990) (Per curiam) Denial of prescribed) orthopedic shoes may state a deliberate indifference.

Plaintiff in the instant action clearly showed the defendants of the serious potential harms associated with defendants actions or lack of, therefore meeting the objective standard, the plaintiffs showed via his exhibits or initial complaint that the defendants were informed about these harms, yet deliberately chose to ignore the concerns and increase plaintiffs risk of being affected. wherefore, contrary to defendants memorandum, plaintiff does in fact establish an eighth (8th) amendment claim based on conditions of confinement with respect to the amended complaint.

Additionally, to establish deliberate indifference to a serious medical need, the objective component required that a plaintiff show, his actual deprivation of adequate medical care and that the inadequacy in medical care is sufficiently serious.

"Salahuddin v. Goord 476 F. 3d 263, 279-80 (2nd circuit 2006). A prisoner is actually deprived of adequate medical care if prison officials fail to take "reasonable measures" in response to a medical condition, citing Farmer v. Brennan 511 U.S. 825, 847, such as refusing to acknowledge, respond and take immediate action to a serious medical concern, when compelling evidence was provided to support plaintiff internal complaints.

As to the 2nd prong, different analysis apply depending whether the claim is for failure to provide any treatment as opposed to provide deficient treatment. If the claim is for failure to provide treatment "Courts examine whether the inmate's medical condition is sufficiently serious" (citing Smith v. Carpenter 316 F. 3d 178, 185-86 (2nd cir 2003)). By contrast, where the inadequacy is in the medical treatment given, the harm faced by a prisoner due to the challenged deprivation of care "Gorrs v. Breslin 402 F. Appx 582, 585 (2nd cir 2010) (quoting Smith 316 F. 3d at 186). Plaintiffs, supported by compelling evidence, clearly shows the significant "risk at harm". As for the subjective component, Plaintiff must allege that the defendant acted with "a sufficiently culpable state of mind" Salahuddin 467 F. 3d at 280 (citing Wilson v. Seith 501 U.S. 294, 300). Sufficient culpability "requires that the charged official act or failure to act while actually aware.... that serious inmate harm (would) result". (citing Farmer 511 U.S. at 836-37)

DEPRIVATION OF THERAPEUTIC DIET

Defendants in the motion to dismiss, states that the deprivation do not rise a sufficient claim of confinement. Plaintiff states that four or five times is far from being a isolated incident, defendants ~~know~~ about this and yet did nothing. However the fact that plaintiff was denied meals each time he went outside the housing facility "each facility the plaintiff has been in, it was the same, (BKDC, OBCC, NIC, RNDC) none of the facilities have a system in place to make sure that all the inmates within it's care are treated the same, just because a inmate has a medical condition should said inmate be treated unfair, this form of discrimination is not related to a legitimate governmental purpose. "Doe v. Sparks, 73F. Supp. 227 (W.D. Pa 1990)

The 14th amendment to the constitution guarantee's everyone "equal protection of the law, meaning prison cannot treat some prisoners differently than it treats other. Inmates within the nyc doc, are being treated very differently than inmates with therapeutic diets, if a inmate has a therapeutic diet and goes outside the facility then comes back to the intake of said facility he will not be able to eat that meal and will have to feel the pain of being denied basic human need "food" The pain of being "Hungry" just knowing that each time you go out of the facility you will not eat (go hungry). The 14th amendment guarantees everyone from discrimination, after all the complaints that was made the defendants had to know what was taking place and did nothing, defendants had a culpable state of mind.

Plaintiff is also challenging the fact there is no system in place for inmates with therapeutic diets given by a doctor... that goes outside the Facility. Prisons should rely on what a prison doctor tells them "Johnson v. Doughty, 433 F. 3d 1001 (7th cir. 2006). When these same non medical officials interfere with the treatment that your doctor has ordered. Therapeutic diets are apart of your treatment when ordered by a doctor. In considering whether you have a serious medical need, the court must look at several factors, 1) whether a reasonable doctor or patient would consider the need worthy of comment or treatment, 2) whether the condition significantly affects daily activities and 3) whether you have chronic and serious pain. "Brock v. Wright, 315 F. 3d 158 (2nd cir. 2003).

A person knowing that he/she will have to go without food each time he/she goes outside the facility can cause mental health concerns can qualify as serious medical needs. Estate of Cole by Pardue v. Fromm, 94 F. 3d 254 (7th cir 1996); Gregore v. Class, 236 F. 2d 413 (8th cir 2000). Emotional distress, mental anguish, psychological stress, physical injury, all fall under the eighth amendment.

SERIOUS MEDICAL NEED

Plaintiff, Gregory L. Perkins, has been "diagnosed" with Asthmia, Arthritis, Degenerative Disk Disease, Diabetes, Hypothyroidism, Sciatica (Sciatic nerve) and Immune Thrombocytopenic purpura, all being a serious medical need, plaintiff's medications are "Atorvastatin, Levothyroxine, Lisinopril, Omeprazole, Celebrex, Neurontin, Tylenol/codeine#3, Advair, Prednisone AC, Cyclopentolate, Albuterol and a high dose of steroids for his immune thrombocytopenic purpura (I.T.P).

This medication helps him stay alive and with pain very serious pain... The above medications are also apart of the treatment ordered by Doctor as well as his therapeutic diet. Beliberate indifference came in to play when non-medical officials intervene with the treatment ordered by doctor "Estelle, 429 U.S. At 104-05 Lopez v. Smith, 203 F. 3d 1122 (9th cir 2000). Plaintiff conditions was very obvious to non-medical staff such as, C.O. Boyd, she took plaintiff Perkins to the medical department (clinic) during a emergency where plaintiff's pain was so severe that the plaintiff was crying and could not walk and was taken by way of stretcher and could see first hand the pain the plaintiff had to deal with. Know that she knew full well what she was doing when she interfered or delay and deny plaintiff his medications.

She knew that would be a substantial risk of harm, as well Jane Doe #2 She was one of the nurses who took care of plaintiff during this emergency and others that took place. Hill v. DeKalb Regl youth d&t, Ctr, 40 F. 3d 1176, 1187 (11th cir 1994). Jane Doe #2 altered the log sheet that made this deliberate indifference and its illegal, Saucie v. Katz, 533 U.S. 194 (2001) Harlow v. Fitzgerald, 457 U.S. 800 (1982), Prison legal New v. Lehman, 397 F. 3d 692, 701 (9th cir 2005)

EXHAUSTED ADMINISTRATIVE REMEDIES

Under the PLRA "no action shall be brought with respect to prison conditions under sec. 1983 of this title, or any other federal law by a prisoner confined in any jail, prison, or other correctional facility "unless" such administrative remedies are exhausted" 42 U.S.C. Sec. 1997e (a). Apparently inmates wishing to challenge prison conditions may do so if internal remedies are exhausted, which plaintiff in the instant case has done.

To prevail on a sec. 1983 claim, a plaintiff must show that a defendant acted under the color of the law and that a defendant deprived plaintiff of a right secured by the constitution. Gomez v. Toledo 446 U.S. 635, 640. Defendants, in their motion to dismiss contends that a "grievance" is not something that's protected by the United States Constitution.

However, to the contrary, not forwarding initial complaint (Grievance) to the next appropriate official, in accordance with the grievance procedure hindered plaintiff from exercising their 1st amendment right. A suit in this court may not be commenced pursuant to 42 U.S.C. Sec. 1983 unless internal remedies are exhausted. it is well settled that filing of a prison grievance is an activity protected by the 1st amendment, Gill v. Pidlypchak 389 F. 3d 379, 384 (2nd cir 2004). Also, Davis v. Goord 320 F. 3d 346, 352-53 (2nd circuit). Wherefore, defendants failure to forward and /or entertain plaintiff's exhaustion remedy in a seemingly attempt to preclude plaintiffs from commencing this action is a clear example of depriving someone of a right secured by the constitution.

To sustain a 1st amendment retaliation claim, an inmate must demonstrate the following: 1) that the speech or conduct at issue was protected, 2) that the defendants took adverse action against the plaintiff and 3) that there was a causal connection between the protected speech and the adverse action "Gill v. Pidlychak 389 F.3d at 380. Plaintiff in fact established 1st amendment claim where his legal work were destroyed in retaliation for his filing of "Grievance" (emphasis added);

Houston v. Schiuro no. 11 Cir. 7374, 2013 u.s. Dist Lexis 118867 (SDNY Aug 20 2013). Varela v. Demmon, indicates that grievances are protected by the United States Constitution. Wherefor, considering the fact that the grievances are protected by the 1st amendment, defendants are clearly at fault and responsible for violating plaintiff's right by refusing to acknowledge and or take action upon receipt of grievance.

Additionally, it has long been established beyond a doubt that prisoners have a constitutional right of access to the court by disregarding grievances. "The right to meaningful access to the courts extends to established prison grievance procedures. Valandingham v. Bojorquez 866 F. 2d 1135, see also, Hines V. Gomez 853 F. Supp 329 and cases cited therein the "Government" to which the 1st amendment guarantees a right of redress of grievances includes the prison authorities. Sorran's Gasco Inc v. Morgan 874 F. 2d 1310.

Finally, in some cases a prisoner may be required to exhaust the established prisoner grievance procedure before securing relief in federal court. See, 42 U.S.C. Sec, 1197 et Seg. In those cases, a prisoner's fundamental right of access to the courts hinges on his ability to access the prison grievance system. Bradley v. Hall 64 F. 3d 1276, 1279. Wherefore, the grievance procedure, which is secured by the 1st amendment of the United States Constitution was violated by the defendants.

A foil request has been sent to; NYC Department of Corrections, Laura S. Mello, Senior counsel/Foil Officer, 75-20 Astoria Boulevard, East Elmhurst, New York 11370, Requesting 1) Documentation on an active address grievance supervisor, Corc, a system in place for therapeutic diets for inmates who are traveling, corrections officers training concerning medical with inmates, and the training of grievance coordinators.

Marcello v. Dept of Corr., No. 07 Civ. 9665, 2008 U.S. Dist. LEXIS 60895, at 9 (S.D. N.Y. July 30th 2008) (Stating that Prisoners may overcome the exhaustion requirement only if they are to show either 1) That administrative remedies were not actually available to them' 2) That defendant should be stopped from raising plaintiffs failure to exhaust as an affirmative defense' or 3) That special circumstances exist that excuse Plaintiffs non-compliance with official procedural requirements). N.Y. Comp. Codes R. & Regs. tit. 7 Sec 701.5 (b)(4)(i)(2007' State of New York Department of correctional services, Directive no. 4040, Inmate Grievance program sec 701.5 (b)(4)(i) (2006).

Prison grievance system exhaustion remedy should be excuse because it was the office of the grievance system that by refusing to acknowledge and to take any action upon receipt of grievance. Mr. Brown (Grievance coordinator) made this become a special circumstances along with C.O. Clarke 4399, The defendants in this action are the very cause of the plaintiff not being able to exhaust all remedies, and should be estopped to raising plaintiffs alleged failure to exhaust an affirmative defense, because the defendants in this action make this a special circumstance that excuse plaintiffs alleged non-compliance, Official Procedural Requirements. The supreme court has ruled that there is no total exhaustion rule, Jones v. Bock 549 U.S. 199, 219-223)2007 Marvin v. Goord, 255 F. 3d 40, 43 n.3 (2nd cir. 2001) 7NYCRR Sec 701. 1 (stating that the inmate grievance program is intended to supplement, not replace existing formal or informal channels of problem resolution)

CONSPIRACY

By its very nature, conspiracy requires at least two or more persons, since one cannot conspire with oneself. While an agreement to violate the law is an essential element of the crime of conspiracy a defendant may be convicted of despite the fact that the other members of the conspiracy feigned thier agreement and had no intention of perpetrating the object crime. A claim for Civil Conspiracy also requires Malice and intent to injure the plaintiff. 35 Ny. Jur. 2d Criminal Law' Principles and offenses Sec 280.

It has been well established that correctional officers of the city of N.Y. as well as nurses within the city and state of New York has been appropriatley trained in thier fields. For correction officers, it is reasonable to believe that they have received the appropriate training pertaining to what they are allowed and not allowed to do concerning medical situations and inmates. To prove a Sec. 1983 Conspiracy, a plaintiff must show 1) An agreement between two or more state actors or between a state actor and a private entity, 2) To act in concert to inflict unconstitutional injury, and 3) An overt act in furtherance of that goal causing damage. Plaintiff in this matter applies 42 U.S .C Sec. 1985 in addition to Sec. 1983 Conspiracy.

In reference to one of the cases that was cited (Beckles v. City of New York, No. 08 Civ. 03687, 2011 U.S. Dist. LEXIS 21059 (S.D.N.Y Feb. 25, 2011)), by the defendants the plaintiff's case should be distinguished much differently than the defendants citations, 1) The plaintiff has not alleged excessive force. 2) The factors in the plaintiff's case bear no similarities to defendants citations. It is the plaintiff's belief that the defendants in this case, on matters of conspiracy, acted in concert with one another which inflicted an unconstitutional injury of deliberate indifference, all defendants in this matter played a significant role.

On December 8th, 2013 correctional officer Boyd, Shield 18468, at approximately 9 a.m. attempted to pick up the plaintiff and escort him to the clinic to receive his direct observation therapy (DOT) Medication. There is a system in place that directs the escorting officers on who to pick up, when to pick ~~up~~ up and for what purpose they're being picked up. This list is normally generated the night before the inmate would be picked up. Or should I say sometime during or after 12 midnight the overnight staff generates a list based on who is needed to receive their DOT medication, based on each individual's records, if in fact ^I had received my medication as defendants have stated then my name would have never been placed on the list to have been escorted, the escort would have never attempted to pick me up in the first place.

3) The next stage is where correction officer Boyd, Shield 18468, repeatedly informed correction officer Martin (Housing Unit Officer of Plaintiff) that she was returning to pick up the Plaintiff very soon. After several hours went by C.O. Boyd had still not picked up the plaintiff by this time the area captain (or supervisor) was on scene and was informed of the situation. She called down to the clinic and spoke with C.O. Boyd, C.O. Boyd in fact told the captain that she was returning to pick me up. The captain informed the plaintiff that he would be picked up shortly however that never happened. Officer Martin, at plaintiff request, called back down to the clinic and spoke with C.O. Boyd who now states that the plaintiff had already received his medication.

C.O. Martin relayed the message to me and threw both hand in the air and stated "don't get me to lying". Shortly after the area Captain returned and inquired if plaintiff had received his meds. She was informed by Officer Martin that the plaintiff had not left the floor nor has he received his medication. At that point the captain became frustrated and immediately called back down to the clinic. She stepped away with the phone so that I cannot hear what was being said, but within 5-10 minutes the plaintiff was being escorted to the clinic.

4) Once at the clinic plaintiff proceeded to the medication window. Present was C.O. Boyd, C.O. Turnbull, Shield 9879, and Jane Doe 1 (nurse). Nurse Jane Doe 1 came from behind the window with the medication log sheet and addressed the plaintiff by stating "Mr. Perkins, I would like to show you that you've already received your medications".

She displayed the medication log sheet and showed me what indicated that twelve a.m. that i had returned to the clinic and recieved the medication. C.O. Turnbull, who was standing beside C.O. Boyd, then stated, loud enough for me to hear, "why is she showing him al of that, she may as well just tell him the truth, refering to Jane Doe 1. Meanwhile C.O. Boyd just stood there with a peculiar look on her face as if she knew what she had done

. I was finally given my medication but only after having to go the entire morning and dealing with the pain of plaintiffs conditions. Pain medication is the essential part of the plaintiff well being and play a major role in his daily activities. Without them the pain becomes unbearable.

5) On December 9th, 2013 plaintiff was escorted to the clinic on the 3pm to 11pm shift and nurse Jane Doe 2 approached the plaintiff while he was waiting online at the medication window, and stated "Perkins, I understand that your acting like a little girl," at that point plaintiff corrected her upon the manner in which she spoke and with a hand gesture she went behind the medication window with one of the medication log sheets in hand and stated "see Mr. Perkins, You did receive your medications." Plaintiff further stated to Jane Doe 2 that you know and i know i had never received medication at 12 midnight and that the indication on the log sheet has been altered from the indication that was there the previous day. She looked at the plaintiff and said "Prove it", and abruptly walked away.

All defendants conspired and worked in concert with one another all had knowledge of what was taking place and yet did nothing, *Toduro v. Ward*, 565 F. 2d 48 (2nd Cir. 1977). The prison had denied on unreasonably delayed Prisoners access to proper medical care in violation of the 8th amendment. However an official can be held responsible if he or she knew (or should have known) that he/she was acting illegally. *Saucer v. Katz*, 533 U.S. 194 (2001) *Harlow v. Fitzgerald*, 457 U.S. 800 (1982) *Prison legal news v. Lehman*, 397 F. 3d 692, 701 (9th cir. 2005).

Rhodes v. Chapman 452 U.S. 337 (1981) Prison must provide the minimum necessities of life, such as food, shelter and clothing as well as medical care. *Hill v. DeKald Reg'l youth Det. Ctr*, 40 F. 3d 1176, 1187 (11th cir 1994) could result in further signification of pain, *Estelle*, 429 U.S. at 104' *Jett v. Penner*, 439 F. 3d 1091-1096 (9th cir. 2001). If a doctor says you need treatment and your need is obvious, than it is probably a serious medical need. *Jones v. United States*, 91 F. 3d 623 (3rd Cir 1996). The Court found the prison breach when officials withheld his medication. And in *Plummer v. United States*, 580 F. 2d 72 (3rd cir. 1978) *Porter v. Nussle*, 534 U.S. 516 (2002), The Supreme Court held that prison conditions refers to everything that happens in prison, including single incidents of Gaurd brutality or inadequate medical care.

On the 17th of July 2014 at the Otis Bantum Correctional Center (O.B.C.C) correction officer Pullucci, destroyed my only copies of the complaints in the Southern and Eastern Districts, However this only happen after i had the talk with the sister of defendant C.O. Boyd 18468, the sister being, Captain Boyd (of O. B.C.C) the captain in her own words revealed to me that she was the biological sister of C.O. Boyd 18468 of the Brookly Detentio Complex. It is a federal crime for state actors to threaten or assault the plaintiff or witnesses in federal litigation, 18 U.S. C. Sec 1512 (a)(2). Then came the complain of harrassment, it didnt matter what facility the plaintiff was in something happen, sometimes C.O. Boyd would show her-self the day of, before or the day after something took plase the last time i saw her was in 2014 at R.N.D.C. However this time she was now a captain. The new matters at hadd are being taken up within the southern district of New York.

The medication order (log sheet) you will find that defendant, Kathy Ann Dockery (Jand Doe 1) has not taken the time to add her signature to the page 2, of the log sheet as other nurses has done, you will also find that defendant Carmen Campbell Bennett, on two of the log sheets added her signature but did not put down a date, Yet she added a date to the 3rd log sheet 12/9/13 you will also find that Carmen Campbell Bennett on all other Medication log sheets from 2013 and 2014, the defendant has always put a date with her signature on all medication log sheets, yet on Dec 8th 2013 she did not, but at no other time has this happen.

A foil request has been sent to find out the times and date the defendant worked along with the shift and the time defendant clocked out of work, there are just too many circumstances in this case that don't add up. I had hoped that the request would be back by now, yet as of this time it had not. Ignorance to the law is not an excuse of the law. All defendants that are mentioned in this complaint acted under the color of the state and all guilty of all accusations made in plaintiff's complaint.

PROCEDURAL DUE PROCESS

There is no dispute that the constitutional requirements of procedural due process apply to proceedings before administrative agencies. In the context of an agency determination, Procedural Due Process requires that the agency provide an opportunity to be heard in a meaningful manner at a meaningful time. *Duong v. I.N.S.*, 118 F. Supp. 2d 1059 (S.D.Cal. 2001) *Dean V. Ashcroft*, 176 F. Supp. 2d 316 (D.N.J. 2001). The Fourteenth Amendment's Due Process Clause protects against deprivations of life, liberty, or property' and those who seek to invoke its procedural protection must establish that one of these interests is at stake.

It aims only at fair dealing, adequate hearing, impartial decision and a procedure to obtain them. Thus, the fundamental requirement of due process is the opportunity to be heard at a meaningful manner. There is no dispute that the constitutional requirements of Procedural Due Process apply to proceedings before administrative agencies, due process requires that the agency provide an opportunity to be heard in a meaningful manner and time.

241

U.S.V. Raines, 362 U.S. 17, 80 S. Ct 519, 4L, Ed, 2d 524(1960) holding that every state official, high or low, is bound by the 14th Amendment. Due Process of Law extends to those situations where a citizen may be deprived of life, liberty, or property, whether the proceeding is judicial, administrative or executive in nature, Williams v. White Plains Housing Authority. 62 Misc. 2d 613, 309 N.Y.S. 2d 454 (Sup 1970) Judgement affd 35 A.D. 2d 965, 317 N.Y.S. 2d 935 (2nd Dep't 1970) The 14th amendment does not, in guaranteeing due process, assure immunity from judicial error. In this case the defendants action is clear. depriving the Plaintiff his rights secured by the constitution. A Grievance is protected by the Constitution. Houston v. Schiavo no. 11 cir 7374 2013 U.S. Dist Lexis 118867 (S.D.N.Y Aug 20, 2013) Vareala v. Demmon.

DEFENDANTS FAILED TO COMPLY WITH LOCAL CIVIL RULES

Plaintiff received defendants motion to dismiss, Plaintiff received nineteen cases out of 56 cases that were individually cited by defendants counsel. Local Civil rule 7.2 States that counsel must provide a Pro Se Litigat with printed copies of decisions cited in any submission that are reported or unreported Defendants have intentionally failed to comply with federal rules of civil procedure in an attempt to undermine the court and to take advantage of the already disadvantage Pro Se Litigate.

Due to plaintiffs limited research ability and limited law library access time and the short amount of time for submitting and filing instant papers, wherefore expressively disagree to all defendants arguments and its implications that may have been indicated, but unnoticed by plaintiff. Plaintiff request's for the court to deny defendants motion to dismiss and rule in favor of the plaintiff for the above reasons. This request is being made pursuant to FRCP 7.2., 4/1(B)

MUNICIPAL LIABILITY

All persons born or naturalized in the United States, and Subject to the Jurisdiction thereof, are citizens of the United States and of state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States' Nor shall any state deprive any person of Life, Liberty, or Property without Due Process of Law' Nor deny to any person within its jurisdiction the equal protection of the laws. Contrary to defendants beliefs and allegations of failure to state a claim of municipality. Detailed allegations within the initial or ammended complaint are not required, The intention was to inform the wrong doing, misconduct, unlawful policies, custom and practive by the city of New York and all its agencies.

For example the United States attorney Preet Bharara questions city's commitment to reform at Riker Island. The U.S. Attorney threatened to take action against the jail noting that questionable promotions of Rikers Honchos raised concerns the city was not complying with its orders of reform. During this time the city controller Scott Stringer called on the two men, Chief of Department William Clemons and Warden Turhan Gumusdere, to be suspended immediately. These aren't just cold statistics, these are incidents that speak directly to the safety of inmates on Rikers. The corruption on Riker's Island goes far beyond physical abuse, sexual assault, drug sales by corrections officers, weapons sales by corrections officers, contraband such as cigarettes ~~sales~~ by correction officers, corrections officers being active members of gangs such as Blocks, Crypts, Etc.

Second example; It has become the policy and custom for the city of New York to reward their agents of the New York City Department of Corrections and the New York City Police Department for their wrong doings, ~~while~~, acting under the color of the state. For instance correction officer Boyd 18468 is now Captain Boyd, Clemons and Gumusdere were promoted by Commissioner Ponte, According to the U.S. Attorney the Department of Corrections withheld parts of an internal review from the Feds. Including information on Clemons and Gumusdere's culpability.

City Corporation Counsel Zachary Carter said Mayor De Blasio would produce evidence that he was fixing and addressing all the problems and corruption on Riker's Island

That evidence has never been presented. The City Of New York has taken on the custom of allowing it's agencies to govern themselves and only choose to get involved when one it becomes a matter of public news, and two when a Federal and superior Government agency gets involved. Take the New York city department of corrections for instance, writing the warden is equivalent to wasting your time for they never respond to any issues, if there is a problem with the inmate grievance program there is virtually no one you can write to to address the issues. As stated above the warden is non-compliant. The commissioners office will only patronize you with a letter stating that your complaint has been forwarded to the appropriate department, and you will never hear from them again. The board of corrections has never once responded to any of my complaints. The Inspector Generals office only chooses to deal with violence, drug issues, gang issues, and sexual assaults. Not one time has I.G. responded to any of my written complaints. The City of New York has made it a custom for itself and it's agencies to ignore the complaints of inmates in hopes that most would be too afraid and intimidated of the New York City Department Of Corrections knowing full well that going up against the department can be extremely dangerous. The influence of the department reaches far beyond staffing, yet you will find that the gang members follow the instructions given to them by the New York City Corrections. Getting the city or the

department of corrections to remedy a wrong once it's been recognized on it's own would literally take an act of God. The problem with the department is that they have no one to answer to. They don't supervise one another and instead of fixing a problem, they justify it. They hide behind the laws and procedures that govern them, and the fact that their staff and agents will manipulate these laws and procedures to accommodate them at all cost, even in this legal action you will find that the defense counsel has subdued to such honorless tactics of litigation by failing to follow federal rules of civil procedure and exploiting the unskilled Pro Se litigate. Again the city and it's agencies will stoop to any means to achieve it's goals. Even here corporation counsel presents no work ethics whatsoever. Plaintiff acknowledges defendants expertise in manipulating and undermining the law. Plaintiff requests for this court to deny defendants motion to dismiss and rule in favor of the Plaintiff, for all the above reasons.

Trezevant V. City of Tampa, 741 f2d 336

This is the case in which \$25,000.00 in damages was awarded for 23 minutes of unlawful incarceration, by the City of Tampa Florida, and the court stated both municipality and county board of criminal justice liable to motorist for unconstitutional deprivation of right to liberty.

Municipality may be liable under civil rights statute for an unconstitutional deprivation when deprivation is visited -pursuant to government "custom" even through such custom has not received formal approval through body's official decision making channels.

Court views all evidence, together with all logical inferences flowing from the evidence, in the light most favorable to the non-moving party...

If there is substantial evidence opposed to the motions, that is, evidence of such- quality and weight that reasonable and- fair- minded men/women in the exercise of impartial judgement might reach different conclusions, the motion should be denied, and the case submitted to the jury..

Garirs V. Rowland, 678 f.2d 1264 (5th cir 1982)

Before dismissing a Pro Se civil rights complaint the Plaintiff should be given a statement of complaints, deficiencies and an opportunity to cure them. Karim-Panahi V. Los Angeles Police Department 839 f.2d 621 at 623-24.

Wherefore Plaintiff respectfully requests for this court to deny defendants motion to dismiss and rule in favor of the Plaintiff in all aspects.

YOUR TRULY,


Gregory Perkins

Sworn to before me this

17 Day of February 2015



Notary Public

KATHERINE FREUND
Notary Public, State of New York
No.01FR6308637
Qualified in Jefferson County
Commission Expires July 28, 2018

PRINT ADDITIONAL COPY FOR NURSING ORDER

Printed 12/03/2013 @ 09:13 AM

MEDICATION ORDER

Name: PARKINS, GREGORY

BookCase: 349-13-12827

NYSID: 05002757P DOB: 04/06/1964

Loc: BKHD/9LA

Drug: Neurontin

Strength: 400 MG Sig: 1 tablet

Freq: Every 12 Hours

Duration: 7 days

Form: Capsule

Route: Orally

Start: 12/03/2013

Stop: 12/10/2013

Diagnosis: Radiculopathy

Physician Comments:

Pharm:

Written by: Lesly Jean Gilles, MD

Nursing Profile by:

Approved by:

Allergies: CHILI, Tomato, pineapples, Bactrim, Tomatoe sauce, peanut butter



3491312827

Order Status: NEW

Dispense: RN-DOT

Date and Time of Order: Jean Gilles, Lesly 12/3/2013 9:12:13 AM

MONTH:												YEAR:																			
D/Hr	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
PA																															
AP																															

PROFILED BY: *Robert Ad* DATE: 12-3-13 TIME:

Drugs Not Administered Code Keys:

1. Refusal
2. Out to court
3. Out to hospital/specialty clinic
4. Off unit (i.e., visit, recreation, library)
5. Withhold (pending lab, abnormal lab, and/or vital signs)
6. Non-formulary and not available at time of administration
7. Not in cassette, pharmacy notified
8. Medication given to take to court or hospital specialty clinic
9. OOS (out of stock) at time of administration
10. NPO

[illegible][illegible]

NURSE'S SIGNATURE			
DATE	FULL SIGNATURE	INITIALS	PRINT NAME
12/3/13	<i>Adrien</i>	CA	C. Adrien, RN
12/5/13	<i>Adrien</i>	TG	T. GHEORGHIES
12/4/13	<i>Adrien</i>	q	Adrien
12/8/13	<i>Adrien</i>	CA	T. Roberts, RN
12/9/13	<i>Adrien</i>	CA	Campbell, Bernadette

**NYC DEPARTMENT OF HEALTH AND MENTAL HYGIENE - CORRECTIONAL HEALTH SERVICES
MEDICATION ADMINISTRATION RECORD**

Name: PARKINS, GREGORY BookCase: 349-13-12827 NYSID: 05002757P DOB: 04/06/1964 Loc: BKHD/9LA

Drug: Celebrex Strength: 100 mg Sig: 1 tab Freq: Every 12 Hours Duration: 7 days

Form: Capsule Route: Orally Start: 12/03/2013 Stop: 12/10/2013

Diagnosis: Radiculopathy

Physician Comments:

Written by: Lesly Jean Gilles, MD

Approved by:

Pharm:

Nursing Profile by:

Allergies: CHILI, Tomato, pineapples, Bactrim, Tomatoe sauce, peanut butter



3491312827

Order
Status: NEW

Dispense: RN-
DOT

Date and Time of Order: Jean
Gilles, Lesly 12/3/2013 9:12:13 AM

MONTH: <u>Dec</u>												YEAR: <u>2013</u>																			
DATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
9A	<div style="display: flex; justify-content: space-between;"> → (AT) TG (A) TG 3/1 0 </div>																														
9P	<div style="display: flex; justify-content: space-between;"> → 3/1 0 3/1 0 </div>																														

PROFILED BY: Ullrich Ash DATE: 12-3-13 TIME: _____

Drugs Not Administered Code Keys:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Refusal 2. Out to court 3. Out to hospital/specialty clinic 4. Off unit (i.e., visit, recreation, library) 5. Withhold (pending lab, abnormal lab, and/or vital signs) | <ol style="list-style-type: none"> 6. Non-formulary and not available at time of administration 7. Not in cassette, pharmacy notified 8. Medication given to take to court or hospital specialty clinic 9. OOS (out of stock) at time of administration 10. NPO |
|---|--|

[illegible][illegible][illegible]

Printed 12/03/2013 @ 09:13 AM

MEDICATION ORDER

Name: PARKINS, GREGORY

BookCase: 349-13-12827

NYSID: 05002757P

DOB: 04/06/1964

Loc: BKHD/9LA

Drug: Tylenol/Codeine #3

Strength: 300-30 MG

Sig: 2 tabs

Freq: Every 12 Hours

Duration: 7 days

Form: Tablet

Route: Orally

Start: 12/03/2013

Stop: 12/10/2013

Diagnosis: Radiculopathy

Physician Comments:

Written by: Lesly Jean Gilles, MD

Approved by:

Allergies: CHILI, Tomato, pineapples, Bactrim, Tomatoe sauce, peanut butter

Pharm:

Nursing Profile by:



3491312827

Order
Status: NEWDispense: RN-
DOTDate and Time of Order: Jean
Gilles, Lesly 12/3/2013 9:12:13 AM

MONTH: DEC												YEAR: 2013																					
DATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
BA	→ (A) (B) (C) (D) (E) (F) (G) (H) (I) (J)																																
PD	→ (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T)																																
PROFILED BY: <i>Robert Asch</i> DATE: 12-3-13 TIME:																																	

Drugs Not Administered Code Keys:

- | | |
|---|---|
| 1. Refusal | 6. Non-formulary and not available at time of administration |
| 2. Out to court | 7. Not in cassette, pharmacy notified |
| 3. Out to hospital/specialty clinic | 8. Medication given to take to court or hospital specialty clinic |
| 4. Off unit (i.e., visit, recreation, library) | 9. OOS (out of stock) at time of administration |
| 5. Withhold (pending lab, abnormal lab, and/or vital signs) | 10. NPO |

[illegible][illegible]

NURSE'S SIGNATURE					
DATE	FULL SIGNATURE		INITIALS		PRINT NAME
1/7/13	Clebut Ad		CA		C. Adrien, RN
12/5/13	GTH		TG		T. GEORGETTES
12/4/13	BAR	9		Nash	
12/8/13	RAD, RN Clemens	M	CB	T. Roberts, RN Campbell-Bernett	

TO: FOIL Officer

FR: Gregory Perkins DIN 141R2794 LOC G2-18

RE: FOIL REQUEST

DATE: 1/16/2015

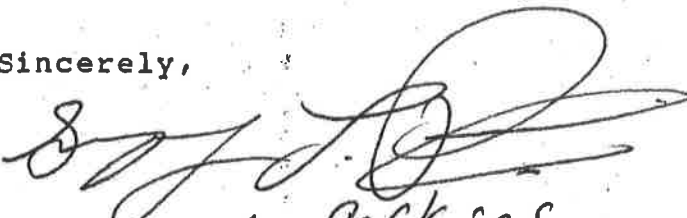
This request is made under the Freedom of Information Act (FOIA), 5 U.S.C. Sec. 552 [and the Privacy Act 5 U.S.C. § 552a].

Please send me copies of the following:

1. See Attachments
2. _____
3. _____

As you know, the Freedom of Information Act provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, I will expect you to send me all nonexempt portions of the record which I have requested, and ask that you justify any deletions with reference to specific exemptions of FIOA. The information requested is not to be used for commercial benefit, so I do not expect to be charged fees for your review of the material to see if it falls within one of FIOA's exepmtions.

Sincerely,

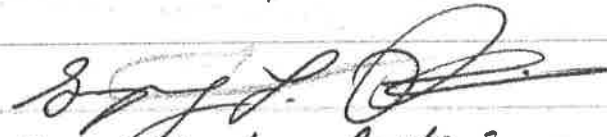

Gregory L. Perkins

Attachment of Foil Request

1) Please send me copies of the following:

Documentation on Carmen Campbell Bennett and Kathy Ann Dockery on 12/7/2013, 12/8/2013, and 12/9/2014. I need to know what facility they worked in for the above dates, what time they started for each above date, and what time they clocked out of work for each above date, I wish to know if they was on over time or worked for someone else... I need to know what post they took well at work for each day... The two persons above work for Corizon and are Defendants in a civil complaint.

Sincerely


Gregory L. Perkins


TO: FOIL Officer
FR: Gregory Perkins DIN: 14R2794 LOX: G2-18
RE: FOIL REQUEST
DATE: Jan-12-2015

This request is made under the Freedom of Information Act (FOIA), 5 U.S.C. Sec. 552 [and the privacy Act 5 U.S.C. § 552a].

Please see attachement

As you know, the Freedom of Information Act provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, I will expect you to send me all nonexempt portions of the record which I have requested, and ask that you justify any deletions with reference to specific exemptions of FOIA. The information requested is not to be used for commercial benefit, so I do not expect to be charged fees for your review of the material to see if it falls within one of FOIA's exemptions.

Sincerely,



Gregory L Perkins

Please send copies of the following:

1.) Documentation that would indicate an active address for the New York City Department of Corrections grievance supervisors. (Who supervises grievance coordinators and who do you make a complaint to about the grievance coordinator.)

2.) Documentation that explains why theres no longer an active working address for CORC within the NYC department of corrections that are available to inmates, and if there is a newly established address please forward said address.

3.) Documentation that would indicate that theres a system in place for inmates who have a therapeutic diet and travels outside the facility and returns back into that facilities intake area and is able to receive the therapeutic meal. If there is no system in place please indicate so.

4.) Documentation that would indicate that New York City corrections officers have appropriately trained on issues of medical concerns dealing with inmates that they do not interfere, deny, delay, or administer medication and what the does and don'ts are concerning medical situations involving inmates. Something that would indicate what thier training was based on concerning inmates.

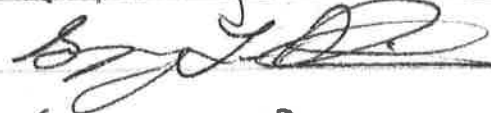
5.) Documentation indicating the training of grievance coordinators and what they are allowed to do and what they are not.

6.) Please send a copy of documentation that inmate has signed for his therapeutic meals in 2013 in Brooklyn Detention complex as well as in 2014 if any.

7.) Copies of all grievances written in BKDC in 2013 and 2014.

Thank you for your time and consideration and hope that you'll be able to expedite this request due to previous dead lines.

Respectfully Submitted,



Gregory L. Perkins

FREEDOM OF INFORMATION LAW REQUEST

FROM: Gregory Perkins Oin: 14R2794

Gouverneur Correctional Facility P.O. Box 370

~~100~~ Gouverneur NY 13642-0370

TO: New York City Department of Correction
Records Access Officer

75-20 Astoria Blvd


East Elmhurst NY 11370

Date 11/20/2014

Pursuant to Public Officers Law §§ 84-90, et seq,
Please provide me with copies of the following —
reasonably described records:

1) New York City Department of Corrections has a
system in place ^{for} therapeutic diets for inmates
when on an appointment or in transit outside the
facility.

Thank you.


Gregory L. Perkins
14 R 2794

Freedom OF INFORMATION Law request

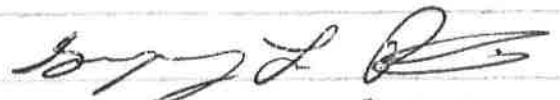
From: Gregory Perkins ID# 14 R 2794
Gouverneur Correctional Facility
P.O. Box 480
Gouverneur NY 13642-0370

TO: CHS Med Records unit
NYC Department of Health & Hygiene
Gotham Center, 42-09 28th St 10th Floor
Long Island City NY 11101
Date 11/21/14

Pursuant to Public Officers Law ss 84-90, et seq
Please provide me with copies of the following
reasonably described records:

- 1) New York City Department of Correction Therapeutic Diet Prescription date 9-29-14
- 2) medication orders start 12-03-13 stop - 12-10-13 There should be 3 orders in all

Thank you,


Gregory L. Perkins
14-R-2794

FREEDOM OF INFORMATION LAW REQUEST

From: Gregory Perkins

DIN: 14R 2794

Ulster Correctional Facility
P.O. Box 800
Napanoch, NY 12458

B/C 349-13-12827

To: RECORDS ACCESS OFFICER

New York City Department of Correction
Office of the Commissioner
75-20 Astoria Blvd
East Elmhurst NY 11370

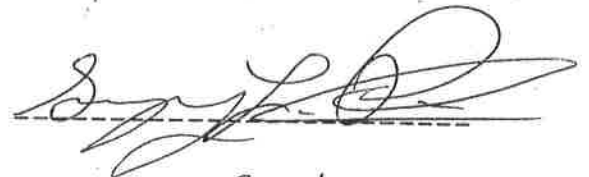
Date: 11 03, 2014.

* * * * *

Pursuant to Public Officers Law §§84-90, et seq, please provide me with copies of the following reasonably described records:

- 1) New York City Department of Correction Therapeutic
Diet prescription dated 9-29-14
- 2) Medication orders start 12-03-13 stop 12/10/2013
There should be 3 orders in all.
- 3) Copies of the 9th Fl log Book on December 8th
2013 within B.C.D.C

Thank you,



Gregory Perkins
14R 2794

10 NOV 2014 01
LEGAL DIVISION



NEW YORK CITY DEPARTMENT OF CORRECTION
Joseph Ponte, Commissioner

Laura S. Mello
Senior Counsel | FOIL Officer
75-20 Astoria Boulevard
East Elmhurst, New York 11370

718-546-0952
Fax 718-278-6001

January 30, 2015

Gregory L. Perkins
DIN# 14R2797
Gouverneur Correctional Facility
P.O. Box 480
Gouverneur, N.Y. 13642-0370

Re: FOIL Request

Dear Mr. Perkins:

This letter is to acknowledge the record request you submitted to the New York City Department of Correction (copy enclosed). Please be advised that the Department of Correction does not possess or maintain the information you request on Corizon employees. Please contact:

CHS Medical Records Unit
NYC Department of Health and Mental Hygiene
Gotham Center
42-09 28th Street
10th Floor
Queens, NY 11101

Very truly yours,

A handwritten signature in dark ink, appearing to read "LMello", written over a horizontal line.

Laura S. Mello
Records Access Officer

Enclosure

TO: FOIL Officer

FR: Gregory Perkins DIN 14R2794 LOC G2-18

RE: FOIL REQUEST

DATE: 1/16/2015


This request is made under the Freedom of Information Act (FOIA), 5 U.S.C. Sec. 552 [and the Privacy Act 5 U.S.C. § 552a].

Please send me copies of the following:

1. See Attachments
2. _____
3. _____

As you know, the Freedom of Information Act provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, I will expect you to send me all nonexempt portions of the record which I have requested, and ask that you justify any deletions with reference to specific exemptions of FIOA. The information requested is not to be used for commercial benefit, so I do not expect to be charged fees for your review of the material to see if it falls within one of FIOA's exepmtions.

Sincerely,


Gregory L. Perkins

28 JAN 2015 10 45

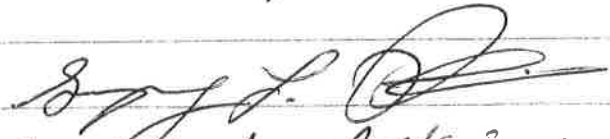
FOIA DIVISION

Attachment of Foil Request

1) Please send me copies of the following:

Documentation on Carmen Campbell Bennett and Kathy Ann Dockery on 12/7/2013, 12/8/2013, and 12/9/2013. I need to know what facility they worked in for the above dates, what time they started for each above date, and what time they clocked out of work for each above date, I wish to know if they are on over time or worked for someone else... I need to know what post they took well at work for each day... The two persons above work for Verizon and are defendants in a civil complaint.

Sincerely


Gregory L. Perkins

DOCS FOIL REQUEST

TO: F.O.I.L. RECORDS ACCESS OFFICER

*CHS Medical Records Unit*FROM: *Gregory Perkins* DIN # *14R2794*HOUSING LOC.: *P.O. BOX 480, Gouverneur NY 13642-*DATE: *2/9/15*

RE: FREEDOM OF INFORMATION LAW REQUEST FOR DOCS RECORDS.

PLEASE BE ADVISED, that this is an official FOIL Request, pursuant to DOCS Directive, #2010, and 7 NYCRR, Part 5. I am hereby requesting access to the following information in the following format: (Check One) ☒ - Copies ☐ - Review ☐ - Info.

See Attachments

This request is made under the Freedom of Information Act (FOIA), 5 U.S.C. Sec. 552 (and the Privacy Act 5 U.S.C. Sec 552a).

I understand that within (5) business days after receipt of this request you must either: (a) acknowledge such receipt and provide me with the approximate date on which the request will be acted upon; (b) grant the requested access; or, (c) deny the request, stating in writing your exact reason(s) for denial of access to all or any part thereof. Please be advised that your failure to so respond may be construed as a denial and will be appealed to Department Counsel accordingly.

I understand further that, should an acknowledgement and approximate date be given, your time in which to act upon my request is extended to within (10) business days of acknowledgement and the approximate date you give must fall within that (10) day period. Please be advised that any such failure to so act may be construed as a denial and will be appealed to Department Counsel accordingly.

Finally, I respectfully remind you of your duty to inform me, in writing, of the reason (s) for denying access to any part of this request. The reason (s) given must be in detail sufficient to permit intelligent appellate review by Department Counsel, or, if necessary, by a Court pursuant to Article 78 of the CPLR.

I appreciate your time and attention hereto. Thank you.

(Signature)



cc: Inmate

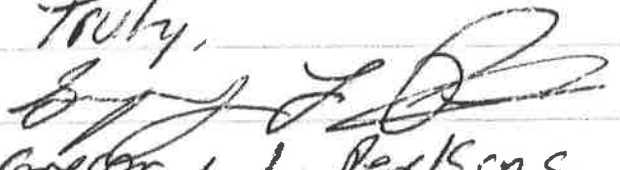
DISBURSEMENT ENCLOSED? (Check One) ☒ - NO ☐ - YES, Amount:

Attachment of Foil Request

1) Please send me copies of the following:

Carmen Campbell Bennett and Kathy Ann Dockey are Defendants in a civil complaint that has a court Deadline and the info request should be back to me by 2/22/15.

2) On 12/7/2013 and 12/8/2013, 12/9/13, documentation on what Facility they worked, what times they work what time they clocked in and out of work for the above dates. I need to know if they worked over time or if they worked for someone else on the above dates. There is a court deadline as stated above, this request is for the above named, Corizon employees.

Truly,

Gregory L. Perkins



NEW YORK CITY DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner

Laura S. Mello

Senior Counsel | FOIL Officer

75-20 Astoria Boulevard

East Elmhurst, New York 11370

718-546-0952

Fax 718-278-6001

December 3, 2014

Gregory Perkins
#14-R-2794
Ulster Correctional Facility
P.O. Box 800
Napanoch, New York 12458

Re: FOIL Request
2015FR0498

Dear Mr. Perkins:

This letter is a partial response to your request for records (copy enclosed). Enclosed please find a copy of the logbook pages you requested. Certain information relating to post equipment and other inmates has been redacted, pursuant to New York State Public Officers Law Sections 87(2)(b) and 87(2)(f).

In order for the Department to provide you with the records relating to your therapeutic diet, please submit a signed and notarized HIPAA form. I have enclosed a blank HIPAA form for your convenience. Once we receive the form, we will promptly forward you any available therapeutic diet records.

Very truly yours,

A handwritten signature in dark ink, appearing to read "LMello".

Laura S. Mello
Records Access Officer

Enclosure

255

contin. Sunday, December 8, 2013 0300X153

0330 Tour of area all appears seen at this time
 0350 Tour of area all appears seen at this time
 0345 Food cages on post. Checked for
 cardboard side haul. Food handles
 instructed to wash hands and don
 harness, gloves and aprons. Menu consist
 of Milk, Mushrooms fresh fruit, Bread,
 Jelly and mini warts
 0400 Tour of area all appears seen at this time
 → Diabetic warden at this time
 0430 Tour of area all appears seen at this time
 } 2nd security inspection conducted. All
 } appears secure and normal
 0440 Tour of area all appears seen at this time
 } 1st progress
 0500 Tour of area all appears seen at this time
 → Feeding in progress
 0530 Tour of area all appears seen at this time
 } Feeding completed. Sanitation completed in progress
 0600 Tour of area all appears seen at this time
 0620 Tour of area all appears seen at this time
 } Sanitation completed
 0630 Tour of area all appears seen at this time
 0700 Tour of area all appears seen at this time
 Count taken and verified TC = 103 All 20
 du 13 Bu 12 Cu 12 Du 12
 Al 14 Bl 14 Cl 13 Ol 13
 → 27 → 26 → 25 → 25

Change of Tour

Sunday, December 8, 2013 0700X153

0700 C.O. Martin #16053 assumes post 9A with a
 verified TC of 103 All 20
 du 13 Bu 12 Cu 12 Du 12
 Al 14 Bl 14 Cl 13 Ol 13
 → 27 → 26 → 25 → 25
 Equipment on Post:

0705 1st Security Inspection in progress

257

Cont. 12/8/13

1100 On post for feed

1130 Tour of area all apples seen at this time
→ feeding completed. Sanitation in progress

1145 Annate Liza notified of a visit

1200 Visual tour of area all apples seen at this time
→ Sanitation completed

1230 Visual tour of area all apples seen at this time

1235 2nd security inspection conducted, all
→ apples scanned this time

1245 Annate Liza (up) notified of a visit

1245 Unscheduled Search SRC's ①

1300 Search completed

1300 Visual tour of area all apples seen at this time

1302 Annate Debra notified of a visit

1305 Annates Brown (up) and Belle Fink (up) notified
of a visit

1300 Visual tour of area all apples seen at this time
→ and notified of visit

1337 C.O. Martin #16053 off post to meet
→ CO Parks at 2073 on Post M/R

1400 Tour of area all apples seen

1430 Tour of area all apples seen

1435 C.O. Parks 2073 off Post M/R completed
→ C.O. Martin #16053 back on post for night

1500 Tour of area all apples seen at this time

1520 C.O. Martin #16053 off post for

Change of tour 3X11 DECEMBER 8, 2013

1520 COA King 7080 assume re-post of
of A verified the TC of 103 live breathing
bodies A 77 1/4 B 26 1/4 C 25 1/4 D 25 1/3

11/11/11 Security inspection conducted on
TIR, gates, locks, showers, doors, lights,
pantry, ceilings, windows, etc.

258

cont'd Sunny December 8, 2003 8X11
 exit signs, fire safety exits, and all common
 areas. Findings as follows
 1530 TOUR of area, all appears secure —
 1535 Inspection Search Sprinkler
 at this time
 1600 TOUR of area, all appears secure at this
 time, no incidents to report
 1600 UNSCHEDULED Search Inspection
 this time all
 1615 TOUR of area, all appears secure, no
 food, again on post inspection for contraband
 findings. Menu consist of Sabud 35,
 Mustard, Potato Sabud 30, carrot relay
 Sabud 32, Crushed Pineapples and white
 wheat Bread. All inmate party areas
 instructed to wear apron, hairnet and gloves
 while serving chow and conduct 2nd
 Satiation after feeding is completed again
 1630 TOUR of area, all appears secure, no
 1700 feeding in progress at this time, no
 TOUR of area, all appears secure, no
 1715 MCM # 121 and 122
 all rules of conduct are
 being followed by all inmates
 at all times, no
 1730 TOUR of area, all appears secure, no
 1745 TOUR of area, all appears secure, no
 1800 TOUR of area, all appears secure, no
 1805 CO R King 7030 off post to meal
 C.O. McCallough 17664 on post for meal
 1830 TOUR of area, all appears to be secure
 1845 CO R King 7030 back on post from meal
 1850 MEDICATION on post posted by 90/100's SCA 815
 1900 TOUR of area, all appears secure
 1930 TOUR of area, all appears secure
 2000 TOUR of area, all appears secure

259

cont'd Sunday December 8, 2013 3X11

2030 Tour of area, all appear secure, we
 (only) Security inspection conducted on tool,
 gates, locks, showers, pantry, dining
 closet and all common areas finding
 2100 Tour of area, all appears secure Ky x
 2130 Tour of area, all appears secure Ky x
 2200 Tour of area, all appears secure
 2230 Tour of area, all appears secure
 2245 final Situation completed at this time
 2300 Work in completed at this time
 2330 CO on p 1200 EOT

CHANGE OF TOUR Mon Dec 9, 2013 ²³³⁰ 30731

2330 C/O Clagston #14384 on post of 9A with
 A relieved TC = 103 A 27(13/14)
 B 26(12/14) C 25(12/13) D 25(12/13)

K Read previous logbook
 entries, nothing reported unusual to
 this writer; Security inspection conducted
 of all common areas, doors, locks, exits
 gates, showers, pantry All appears to be
 secure & normal

2345 Security inspection completed — 14384

2400 B officer C/O Martin #16053

2400 Tour of area appears secure — 14384

0030 Tour of area appears secure — 14384

0100 Apt A remains 312 Dr Apt
 Officer who stated to remain on
 post with no other remarks. Remained wear
 all room he is equipped, advise
 to all POS rule regulation
 violations. Intentional. Order for
 notified this writer of over 1000
 incidents immediately — CAPTAIN

9B

211

DATE December 7, 2013 3x11 SATURDAY

130 Tour of area, all appears secure
 140 Tour of area, all appears secure
 150 Tour of area, all appears secure
 155 (2nd) Security inspection conducted on tel, gates, locks, showers, party, dormitory closets, windows, fire safety and all common areas. Findings & notes
 160 7) over all good to be 1 of this 17
 160 Tour of area, all appear secure Ky 1030
 1630 Tour of area, all appears secured 10
 1700 Tour of area, all appears secured 10
 1730 Tour of area, all appears secured 10
 final saturation is completed at this time 1220

2245 7) over all good to be 1 of this 17
 2300 Lock in completed
 315 LOCK PLOT

HANGE of TOP December 7, 2013 11x7 SATURDAY

2345 I, co. Sumner # 11856 assumes Post '9B' Relieving from the institutional Search. Physical count taken and verified 12 = 103

2355 1st security inspection in progress utilizing Pittermallet
 0010 1st Security inspection Now complete, checked all doors
 / locks, Gates, Common Areas, all appears secure, NO
 / CONTRABAND Found.

0030 Tared area, all appears secure
 0030 Jan & Inspector. All appear secure. Officer instructed to monitor, maintain sup. fully conduct 12 security checks from working complete task assigned. Follow all ROC Rules & Regs. Notify the unit if any unusual incidents. Be safe. Min Equip Rem alert & on post. Log up-to count hats due green flags for med. Rem SPO roster & preem for entries. No waste and items on post floor. Remove all trash/garbage at

212

Cont'd

12.8.2013

29XBT31

0100 Tour of area, all appears Secure
 0130 Tour of area, all appears Secure
 0200 Tour of area, all appears Secure
 0230 Tour of area, all appears Secure
 0300 Tour of area, all appears Secure
 0330 Tour of area, all appears Secure
 0400 Diabetes Awareness Device (LB) Fluckey (UC)
 Tour of area, all appears Secure
 0430 Food wagon on post, food prep in progress
 0430 Tour of area, all appears Secure
 Prep in progress
 0500 Tour of area, all appears Secure
 0530 Food and Samhain Cupcake
 0600 Tour of area, all appears Secure
 0615 Tour of area, all appears Secure
 0620 Tour of area, all appears Secure
 0630 Tour of area, all appears Secure
 0700 Tour of area, all appears Secure

CHANGE OF TOUR

December 8, 2013

0700 X1531

0820 I, C.O. Summers #11856 assumes post 9B returning from the Institutional Search. Physical count taken and verified [TR=103]

0830 1st security inspection now in progress utilizing Robbins
 0845 1st security inspection now complete, checked all doors locks, windows, common areas, Showers, all appears Secure, NO CONTRABAND found.
 0900 Tour of area, all appears Secure
 0910 Tour of area, all appears Secure
 Instructed to monitor Samhain, Supr. plenty Conductable Security checks. Comm. brooks Complete task assigned. Follow all DOC rules & reg. Notify the unit of any unusual incidents. Be Safe. No Equine Pen in Airt for post. (a) Unit for cant hats gloves aprons Temp. for med Pen S&C route & pen for entrance. No unauthorized items in post pen.

213

Unit 12-5-13 713

- ✓ No unattended items in post (pers. - Ensure trays are in)
- ✓ Garbage is removed from area
- ✓ Ensure sanitat forms are completed, vacant cells
- ✓ Rat traps are cleaned (Cpt. Wm)

1000 tour of area, all appears secure 10:00

1030 Tour of areas all appears secure 10:30

✓ Food wagon on post, Food prep in progress 10:40

✓ Locking down the house for feeding. 10:50

1100 Feeding in progress @ this time 11:00

1100 On post f. feed 11:00

1145 Feeding complete, Sanitation in progress 11:45

1200 Tour of area, all appears secure 12:00

1230 Tour of area, all appears secure 12:30

1300 Tour of area, all appears secure 13:00

1330 Tour of area all appears secure 13:30

1335 CO. Summers #11956 off post for meal 13:35

↓ CO. Stephane #15526 on post at this time returning 13:50

↓ CO. Summers #11956 for meal at this time - CO. Stephane 14:00

1400 Tour of area all appears normal. CO. Stephane 14:00

1430 Tour of area all appears normal. CO. Stephane 14:30

CO. Stephane #15526 off post at this time 14:50

Completed CO. Stephane 15:00

1435 Tour of area, all appears secure 14:35

1500 Tour of area, all appears secure 15:00

✓ Locking in progress @ this time 15:30

1530 CO. Summers #11956 off post E.O.T. 15:30

CHANGE OF TOUR SUNDAY 8th DECEMBER 2013 1500-2331 NR TOUR1605 CO. Roberts, L #18942 on post at 9th floor B office 16:05

with a TC ... Read the previous 16:10

tour nothing unusual occurred. 16:15

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214

CONT'D SUNDAY 8TH DECEMBER 2013 1500-2331 NR TOUR

1630 Tour of area, all appears normal — Robert
 feeding is in progress — Robert
 (CO) Alamy, L #18942 on post — Robert
 Restricting on the right — Robert
 on post by the right — Robert
 & Regularly walk — Robert
 & the unit — Robert
 tour ends in the unit — Robert
 day and night — Robert

1700 Tour of area, all appears normal — Robert

1720 CO Robert, L #18942 wt to meal — Robert

1720 C.O. McCullough 17664 on post-formal

1730 Institutional feeding completed at this time

Tour of area all appears to be secure — C. O. M.

1800 Tour of area all appears to be secure — C. O. M.

CO Robert, L #18942 back from meal — Robert

1830 Tour of area, all appears normal — Robert

1850 Medication is in progress — Robert

1900 Tour of area, all appears normal — Robert

1930 Tour of area, all appears normal — Robert

2000 Tour of area, all appears normal — Robert

2005 Completed 2nd security inspection on all common

areas, all appears normal — Robert

2030 Tour of area, all appears normal — Robert

2100 Tour of area, all appears normal — Robert

2130 Tour of area, all appears normal — Robert

Sanitation is in progress at this time — Robert

2200 Tour of area, all appears normal — Robert

2230 Tour of area, all appears normal. Sanitation is complete

in day room, shower area, toilet and all common areas

2300 Tour of area, all appears normal — Robert

2327 CO Robert, L #18942 off post — Robert

254

9A

Visual tour of area all appears to be secure -
 Visual tour of area all appears to be secure -
 Visual tour of area all appears to be secure -
 C/O Chman #1575 off post EORT

Change of Tow
 Sunday, December 8, 2013 230000Z

0330 C.O. North #11053 230000Z post QA

with a verified TC = [103] All On

At 13 B 12 C 12 D 12

At 14 B 14 C 13 D 13

→ 27 → 26 → 25 → 25

Equipment on post 1 A #11,

0310 1st security inspection conducted at the

0300 F.O. Security #11053 on post as "B" officer

0001 Visual tour of all areas seen at the

Security inspection completed. All gets, doors,

walls, keys, gets, windows, exits, clocks, and

all areas seen (Chman, party, door). All

areas secure. No combined hand

0005 SR6 waste feed, reviewed and as follows. [9]

mainly identified

All previous entries read. Nothing unusual reported

to the center

0030 Tour of all areas seen at the

0000 Tour of all areas seen at the

inspected. All appears secure. Off

instructed to perform routine Announcements

log services. Conduct 6 point checks. Follow

24 HR rules & regs. Looking for unit of any

unusual incidents. Be safe. No Equip

Remain Alert & on post. Log. No. for. (but hats

gloves, aprons, temps, for. SR6 note

present in entries. No unauthorized items in

post/per. Remove all trash, garbage after

meal

0100 Tour of all areas seen at the

0130 Tour of all areas seen at the

0160 Tour of all areas seen at the

015 Tour of all areas seen at the

New York City Department of Correction

THERAPEUTIC DIET PRESCRIPTION

DATE: 9-29-14			
INMATE NAME: Perkins, Gregory			
BOOKING CASE #: 349-13-12827		SEX: M	AGE: 50
FACILITY:		HOUSING/LOC:	
FOOD ALLERGY: Tomatoes - Chili - Peanut butter - Pineapple			
HEIGHT:	ADMISSION Wt:	PRESENT Wt:	IBW:

Check appropriate box:

<input checked="" type="checkbox"/> Carbohydrate Controlled <input type="checkbox"/> Clear Liquid <input type="checkbox"/> Full Liquid <input type="checkbox"/> Modified Consistency <input type="checkbox"/> Puree	<input checked="" type="checkbox"/> Renal (60 Grams Protein) <input type="checkbox"/> Renal (80 Grams Protein) For Hemodialysis Inmates
---	--

☐ Enteral Feeding: (Refer to DOC Diet Manual)

CONSULTATION REQUEST FORM REQUIRED FOR:

High Calorie Diet

Supplements

Snacks

NOTE: This form is only for ordering Therapeutic Diets. DO NOT add to the above diets. Refer to the DOC Diet Manual available in the Clinic. Individual food preferences are not accommodated. Use Consultation Forms for additional diet-related evaluations.

M.D. /P.A. Signature

Date

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Gregory Perkins X

Plaintiff,

Affirmation of Service

-against-

Carlton Newton et al


14 CV 02670 (Kam) (LB)

Defendant.

I, Gregory Perkins, declare under penalty of perjury that I have
served a copy of the opposition to defendants motion to Dismiss,
upon Andrew J. Rauchberg, Corporation Counsel of the City of New York,
whose address is: 100 Church Street Room 2-189
New York NY 1007

Dated: _____

Gouverneur, New York


Signature

P.O. Box 480 (G.C.F.)
Address

Gouverneur NY 13642-0370
City, State, Zip Code